IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 9100 of 1999

Between:

D. Rama Murthy, S/o. Srisubramaniam,

(Agro Chemicals) R/o. Plot No. B-32, Road No. 8,

Film nagar, Jubilees Hills,
Hyderabad.

..... PETITIONER

AND

1 Andhra Pradesh State Agro Industries

Development Corporation Ltd.,

Rep by its Vice Chairman & Managing
Director, A.C. Guards, Hyderabad- 5000004.

2 Andhra Pradesh State Agro Industries

Development Corporation Ltd.,

Rep by its Manager (Personnel & Accounts)
A.C.Guards, Hyderabad- 500004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased to issue any appropriate, order, direction or a writ preferably a writ in the nature of writ of Mandamus declaring the action of the respondents in not paying the salary for the period commencing from 7.4.97 to 31.10.97 and also encashment of earned leave of 211 days to the petitioner as illegal, arbitrary and violative of Article 14 and 300-A of the Constitution of India and consequently direct the respondents to forthwith make payment of salary for the period commencing from 7.4.97, to 31.10.97 which comes to about Rs. 80,000/- together with interest at 21% per annum from the

date on which the amount fell due till the date of realization and also encashment of earned leave for 211 days, to the petitioner, and to pass such further or other orders as this Hon'ble Court deems fit and proper.

Counsel for the Petitioner: MR.P.VENUGOPAL

Counsel for the Respondent Nos.1 and 2: MR.MEHERCHAND NOORI

The Court made the following:

ORDER:

This writ petition is filed seeking a Mandamus, declaring the action of the respondents in not paying the salary for the period commencing from 07.04.1997 to 31.10.1997 and also encashment of earned leave of 211 days to the petitioner, as illegal, arbitrary and violative of Articles 14 and 300-A of the Constitution of India, and consequently, direct the respondents forthwith to pay the salary for the above said period which comes to Rs.80,000/- together with interest at 21% p.a. from the date on which the amount fell due till the date of realization and also encashment of earned leave.

There is no necessity to go into all the details since the facts are not in dispute. The petitioner after serving the respondent organization took voluntary retirement and retired after taking the benefits. Now it is the case of the petitioner that during the period from 07.04.1997 to 31.10.1997 he was sent on leave by the department itself directing him to collect trade debts of the department. Thus, he was sent forcibly on leave for collecting the trade debts. In fact, he had collected an amount of Rs.80,000/- towards trade debts by going person to person during that period and he is entitled for encashment of earned leave for 211 days as per rules. There is no much dispute as to these facts. In fact the respondents conceded that the period from 07.04.1997 to 31.10.1997 was treated as earned leave and the petitioner is entitled for certain amounts. Apart from that the petitioner is also entitled for encashment of earned leave for 193 days.

The only objection taken by the respondents is that they have obtained as many as three decrees against the petitioner from competent civil Courts and the petitioner did not contest the same though notices were served on him and there is joint and several liability against the defendants therein. Therefore, the respondents have obtained attachment orders, attaching the amount payable to the petitioners

towards the leave period from 07.04.1997 to 31.10.1997 including the amount payable to the petitioner for the earned leave of 193 days. Therefore, unless and until the attachment order is raised by the competent civil Court, it is not possible for them to pay these amounts. I am totally in agreement with the argument advanced by the learned counsel for the respondents in this regard.

In view of the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with a direction to the petitioner to approach the concerned Civil Court for raising the attachments made against the amount payable to him by the respondent organization and work out his remedies.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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C.V.RAMULU,J

Dated: 12.07.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Vice Chairman & Managing Director,

Andhra Pradesh State Agro Industries

Development Corporation Limited,

A.C.Guards, Hyderabad

2. The Manager (Personnel & Accounts)

Andhra Pradesh State Agro Industries

Development Corporation Limited,

A.C.Guards, Hyderabad

3. Two CD copies

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